

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioners, by David Barker, appeared and testified. There were no testifiers.

Testimony indicated that the subject property, known as 7 Study Avenue Court, consists of 1/4 acre more or less joined to B. 2 and is improved with a single family dwelling and attached garage. The subject dwelling was recently constructed and has been occupied by petitioners since June 1991. As a result of a complaint filed with the Zoning Office, petitioners were ordered to file the instant petition in order to legalize the location of two windows on the south side of the subject dwelling. Testimony indicated that variances are necessary due to the close proximity of the windows to the property line and the dwelling on the adjoining property. Petitioner testified that the subject dwelling was constructed in accordance with the plans submitted at the time he applied for his

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and his property. Peterson v. City of Edina, 200 Ed. 2d (1953). To prove practical difficulty for an area variance, the petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

11 whether relief can be granted in such fashion
that the spirit of the ordinance will be observed and
public safety and welfare secured.

Randerson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28
(1976).

it is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the R.C.Z.M. and would not result in substantial detriment to the public health, safety, and general welfare.

Unrelated to the advertisement, posting of the property, and public hearing on this Eminent Domain, and for the reasons given above, the variance requested should be granted.

BRIDGEPORT, IT IS ORDERED by the Deputy County Commissioner for
Baltimore County that on the 24th day of November, 1991 that the Petition for
Variance from Section 1801.2.2.6 of the Baltimore County Zoning
Regulations (B.C.Z.R.), and from Section 18.0.2.6 of the Comprehensive Manual
of Development Policies (C.M.D.P.) to permit a window to properly line
setback of 1 foot in place of the required 15 feet, and from Section
1801.2.2.1 of the B.C.Z.R. to permit a building to building separation of
4 feet in lieu of the required 49 feet at an existing dwelling, in accordance
with Petitioner's Exhibit 1, be and is hereby GRANTED.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

$$\mathbb{P}(\mathcal{E}_1) \leq \frac{1}{2} \leq \frac{1}{2} \leq \frac{1}{2}$$

Zoning Description

Beginning at a point on the west side of Shady Brook Court which is 40 ft wide at the distance of 150 ft west of the centerline of the nearest improved intersecting street Hill Drive which is 40 ft of Right of Way wide. *Being Lot(s) #80 in the subdivision of The Hillside at Seminary (Section 1) recorded in Baltimore County Plat Book #59, Folio #30 containing .31 acres. Also known as 7 Shady Brook Court in the 8th Election District, 3rd Concomanic District.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District S. 56 Date of Posting March 1907

Posted for 5000

Petitioner Chandrabhawan Chandraiah

Location of property 1st & 2nd Chandraiah Chandraiah

Location of Signs 1st & 2nd Chandraiah Chandraiah

Remarks:

Posted by S. 56 Date of return March 1907

Number of Signs: Signature

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 1801.2C.6 (V.B.6D) to permit a window to project into the

setback of a first in lieu of the required 15 ft. and 1801.2C.1 to allow

a height to height separation of 31 ft. in lieu of the required 40 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty.)

These plans were submitted to comply to a building permit and house approved. No changes were made to submitted plans and house was built. Builder's planter were not aware of question face was built. Builder windows. The two windows on question face is set back from where there is a driveway, garage and laundry side of other house where there is as driveway, and room.

Plans were prepared and advertised as prescribed by Zoning Regulations. (Initial date)

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Legal Owner(s): David C. Durkee
(Type or Print Name)

Signature Ann C. Durkee

(Type or Print Name)
Ann C. Duckel
Signature

City and State _____
 Attorney for Petitioner: _____
 Address _____ Phone No. _____

(Type or Print Name) Lutherville, Md. 21093
City and State

Signature _____
Address _____

Name, address and phone number of legal owner, contract purchaser or representative to be contacted _____

Name _____

City and State _____

Address _____ Phone No. _____

Member's Telephone No.: _____

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.
AVAILABLE FOR HEARING
MONTHS

ESTIMATED LENGTH OF HEARING - 1/2HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER _____
REVIEWED BY: DAG DATE 10/2/94

#3 Shady Brook Ct. (house windows are facing 1 is in violation of neighborhood Arch. Textural guide lines. No glass permitted in garage doors. See attached. Our home has been occupied since 6/91.

CERTIFICATE OF PUBLICATION

TOWSON, MD., Nov. 29, 196

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on 7th 28 1991.

TOWSON TIMES.

S. Zehe Online
Publisher

CERTIFICATE OF PUBLICATION

TOWSON, MD., Nov 29 199

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 28, 1941.

THE JEFFERSONIAN.

S. Zehe Orleans
Publisher

File
COPY

NOT
MAILED

RE:
Case Number: 92-213-A
W/S Shady Brook Court, 150' W of Hill Drive
7 Shady Brook Court
8th Election District - 3rd Councilmanic
Petitioner(s): David C. Durkee, et ux

Dear Petitioner(s):

Please be advised that ~~per A. Jablon~~ is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) REMOVED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Arnold Jablon

ARNOLD JABLON
DIRECTOR

MICROFILMED

NOV. 19 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-213-A
W/S Shady Brook Court, 150' W of Hill Drive
7 Shady Brook Court
8th Election District - 3rd Councilmanic
Petitioner(s): David C. Durkee, et ux
HEARING: FRIDAY, DECEMBER 13, 1991 at 2:30 p.m.

Variance to permit a window to property line setback of 4 ft. in lieu of the required 15 ft.; and to allow a height to height separation of 11 ft. in lieu of the required 40 ft.

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: David Durkee, et ux

December 4, 1991

Mr. & Mrs. David C. Durkee
7 Shady Brook Court
Lutherville, MD 21093

RE: Item No. 223, Case No. 92-213-A
Petitioner: David C. Durkee, et ux
Petition for Variance

Dear Mr. & Mrs. Durkee:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Your petition has been received and accepted for filing this 31st day of October, 1991.

Arnold Jablon

ARNOLD JABLON
DIRECTOR

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: David C. Durkee, et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: November 25, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Mass Transit Administration, Item No. 183
Clayman Property, Item No. 222
Durkee Property, Item No. 223
Blevins Property, Item No. 228
Copingier Property, Item No. 229
Griffith Property, Item No. 230
Sargent/Smith Property, Item No. 232
Starrett Property, Item No. 234

In reference to the Petitioners' request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn
ITEM183/TXT02

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: December 2, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: November 19, 1991

This office has no comments for item numbers 183, 222, 223, 224, 227 and 228.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

NOVEMBER 25, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: DAVID C. DURKEE

Location: 47 SHADY BROOK COURT

Item No.: 223 Zoning Agenda: NOVEMBER 19, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *JP/KEK* Noted and
Approved: *James E. Dyer*
Planning Group
Special Inspection Division
Fire Prevention Bureau

JP/KEK

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: November 23, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
For November 14, 1991

The Developers Engineering Division has reviewed the subject zoning application and we have no comments for items 200, 203, 207 and 209.

For items 100 and 205, County Review Group Meetings may be required for these sites.

For item 204, the owner is cautioned that there is an existing 10-foot drainage and utility easement along the west property line and that no permanent structures are allowed in County right-of-way. A 70 foot unit on this lot will encroach on either the 10-foot or 10-foot side yard line shown on the plat.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

DNB:4

8. Fireplaces

Exterior stacks are to be brick or stone; metal stacks and wood enclosures are not appropriate.

9. Vents

- All heating and mechanical ventilating elements should be located on the rear surface of the roof pitch. Any mechanical vent is to be painted to match the roof and is to be located so there is minimum visibility of it from any street.
- Flues for oil furnaces shall be accommodated in brick or stone stacks.

10. Garage Doors

Garage doors are to be constructed of wood, framed and panelled. Glazing of garage doors will not be approved.

11. Storage

Any ancillary storage or maintenance facilities must be integral with the house or garage.

12. Solar Heating

- Solar collectors will not be approved on the front of traditional houses.
- Any roof mounted collectors must be located on a roof slope so as not to be visible from any street.
- Collectors must be accommodated at grade and integrated with the landscaping and fencing in the rear yard to screen the view of adjoining homes.

13. Exterior Lighting

- One post light is required at the driveway entrance.
- Fixtures are to be crafted in copper, brass or tin and should be of high quality.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

September 10, 1991

Mr. David C. Durkee and
Mrs. Ann C. Durkee
7 Shady Brook Court
Luth-Timonium, Maryland 21093

Re: C-91-2789
7 Shady Brook Court
8th Election District

Dear Mr. and Mrs. Durkee:

In response to our previous telephone conversations and after speaking with the zoning administrator, Arnold Jablon, it is apparent that the above referenced property is in need of a residential zoning variance (public hearing) for the existing 4-foot side yard setback in lieu of the required 15 feet noted in the development plan for Hillside at Seminary.

After obtaining your house plans through Plans Review, it must be noted that windows are shown on the side of the house where the 4-foot setback exists. It is unfortunate that there was a misunderstanding between your builder and Zoning when this permit was approved.

Also, it will be noted that per Arnold Jablon, the filing, advertising and posting fees will be waived. Regardless, the hearing to be scheduled will be advertised in two local newspapers and a sign will be posted on your property 15 days before the hearing date.

Enclosed, please find the instructions and necessary paperwork required to file for this variance. It is advised that you schedule an appointment to file your paperwork as soon as possible by calling 887-3391.

If I can be of any assistance, please do not hesitate to contact me at 887-8096 or 887-3351.

Sincerely,

Donna Thompson
DONNA THOMPSON
Zoning Inspector

DT/cmm

cc: Arnold Jablon, Zoning Administrator

ENCLOSURES

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

October 1, 1991

Mr. Alan Scoll
D. S. Thaler & Assoc., Inc.
7115 Ambassador Road
Baltimore, Maryland 21207

RE: Miller Property
Greenspring Avenue FDP

Dear Mr. Scoll:

I have reviewed the FDP for the Miller Property, Greenspring Avenue. In order to receive approval of this F.D.P., please revise to include the following:

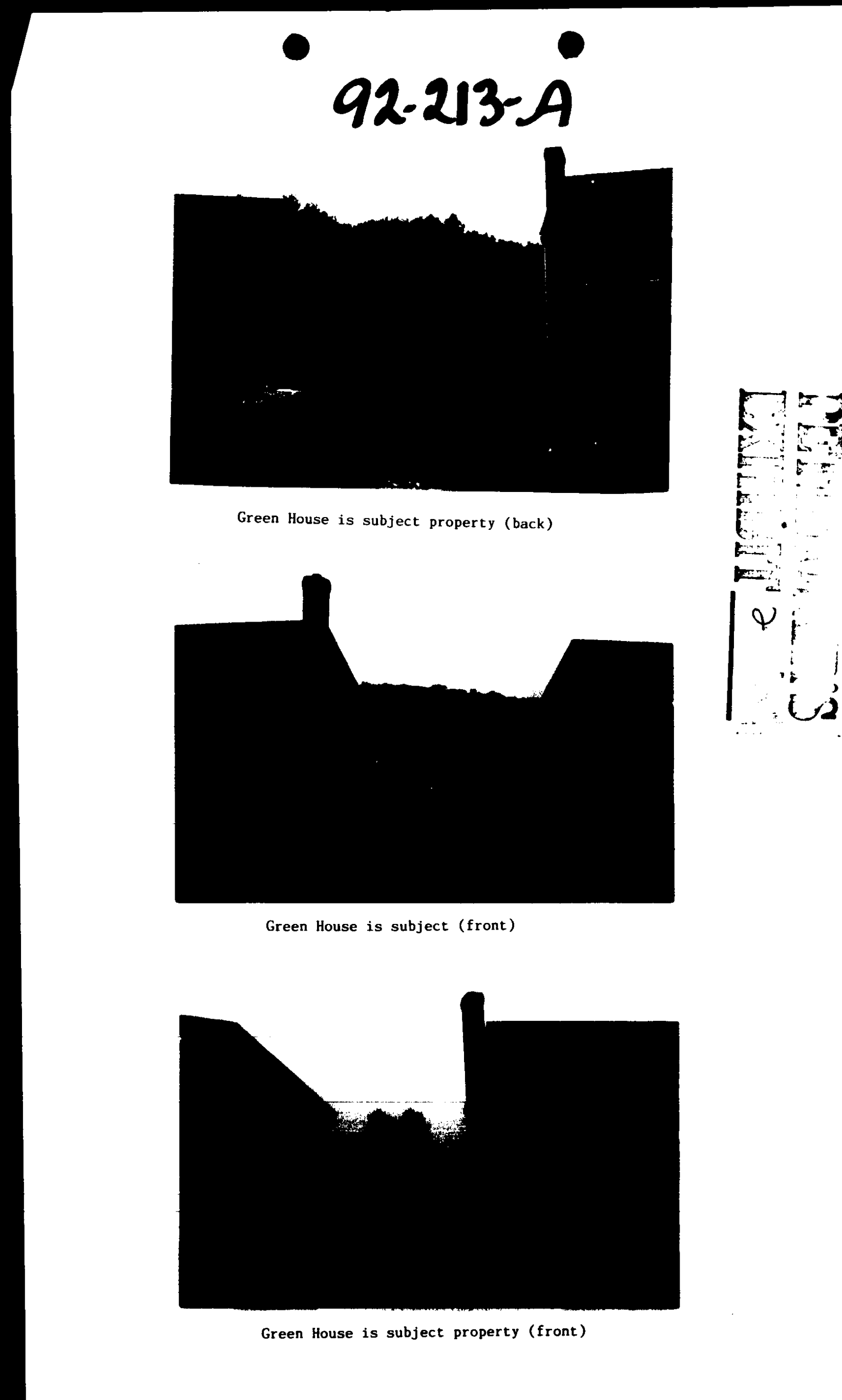
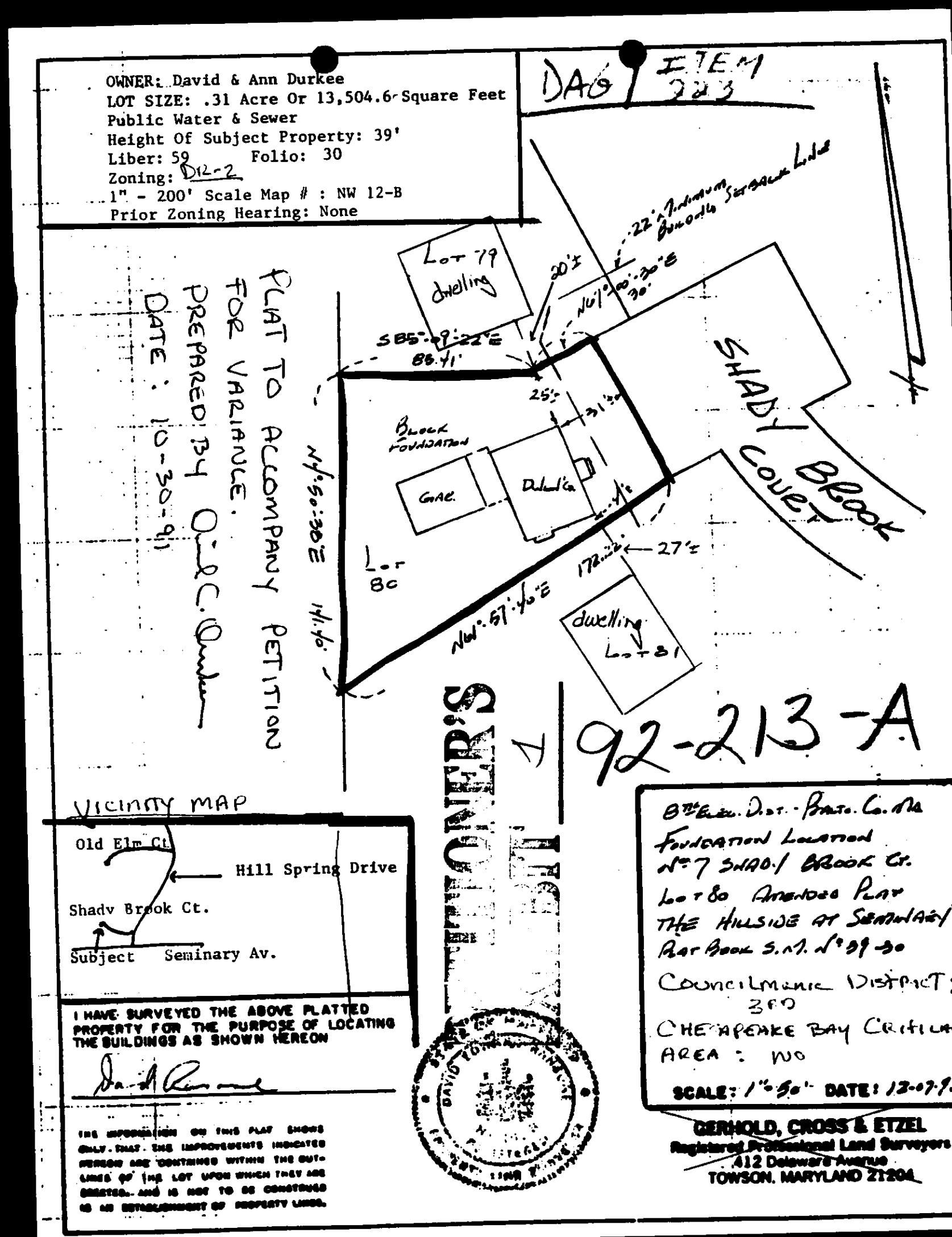
- Add name of Road "A" - See requirement #15 on Page 3 of checklist.
- Add C.R.G. approval date (May 16, 1991) and general notes, #35, on F.D.P.

If you have any questions, please do not hesitate to call me at 887-3391.

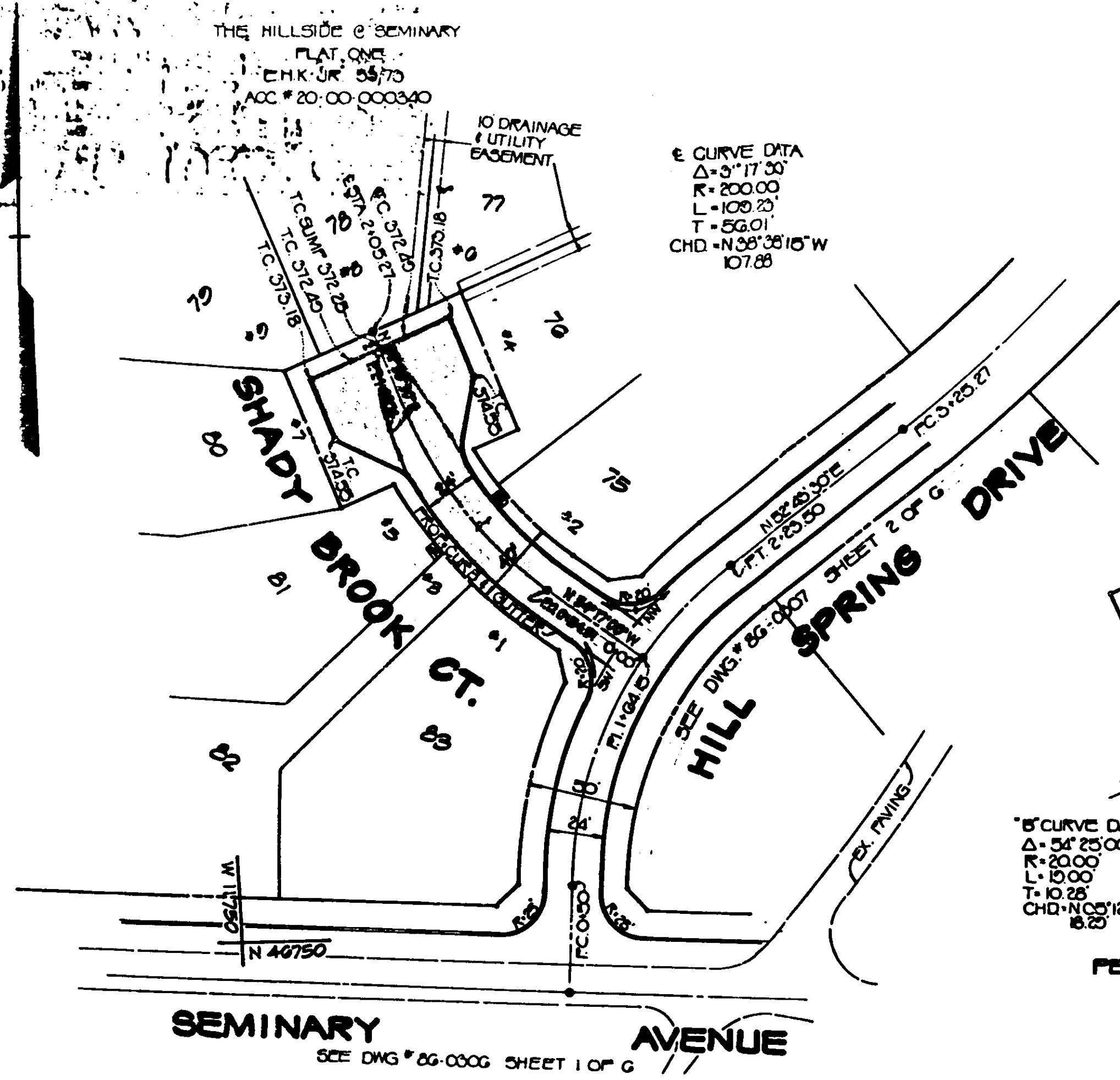
Very truly yours,

David Green
DAVID GREEN
Planner

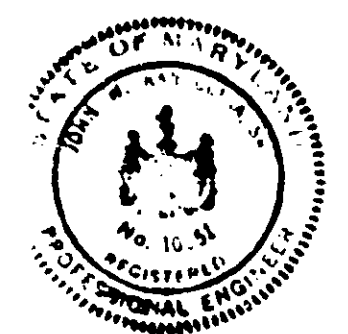
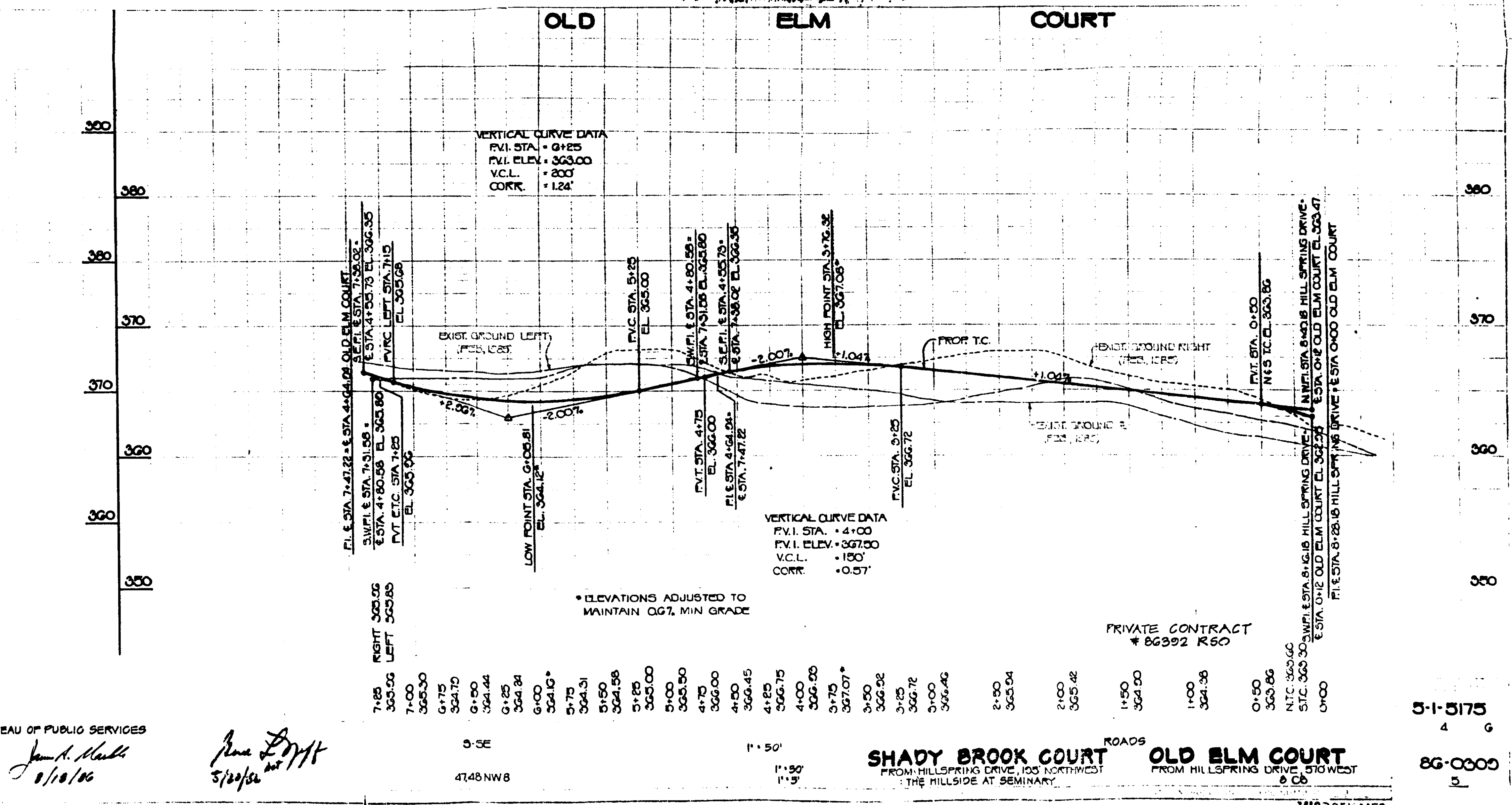
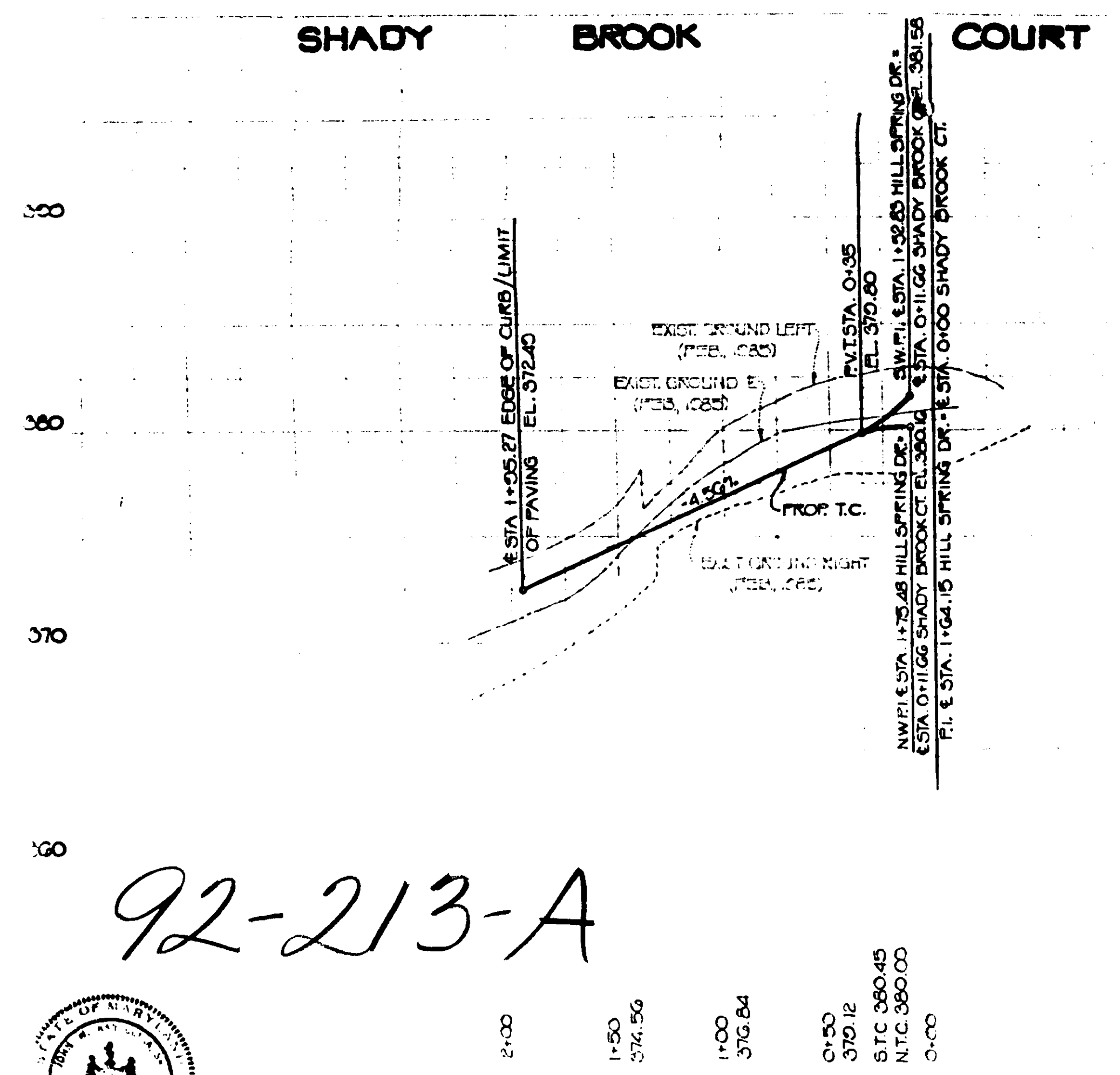
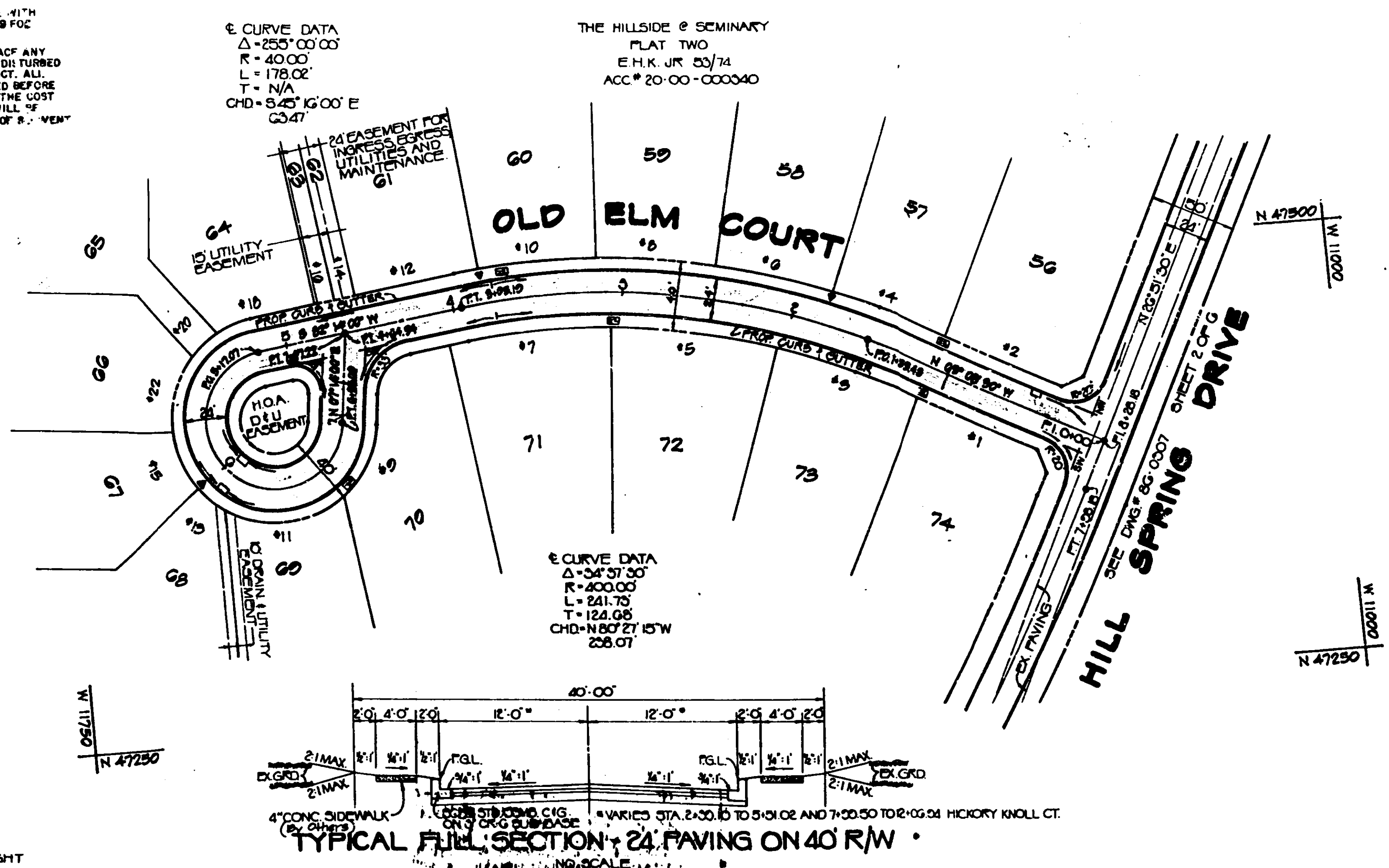
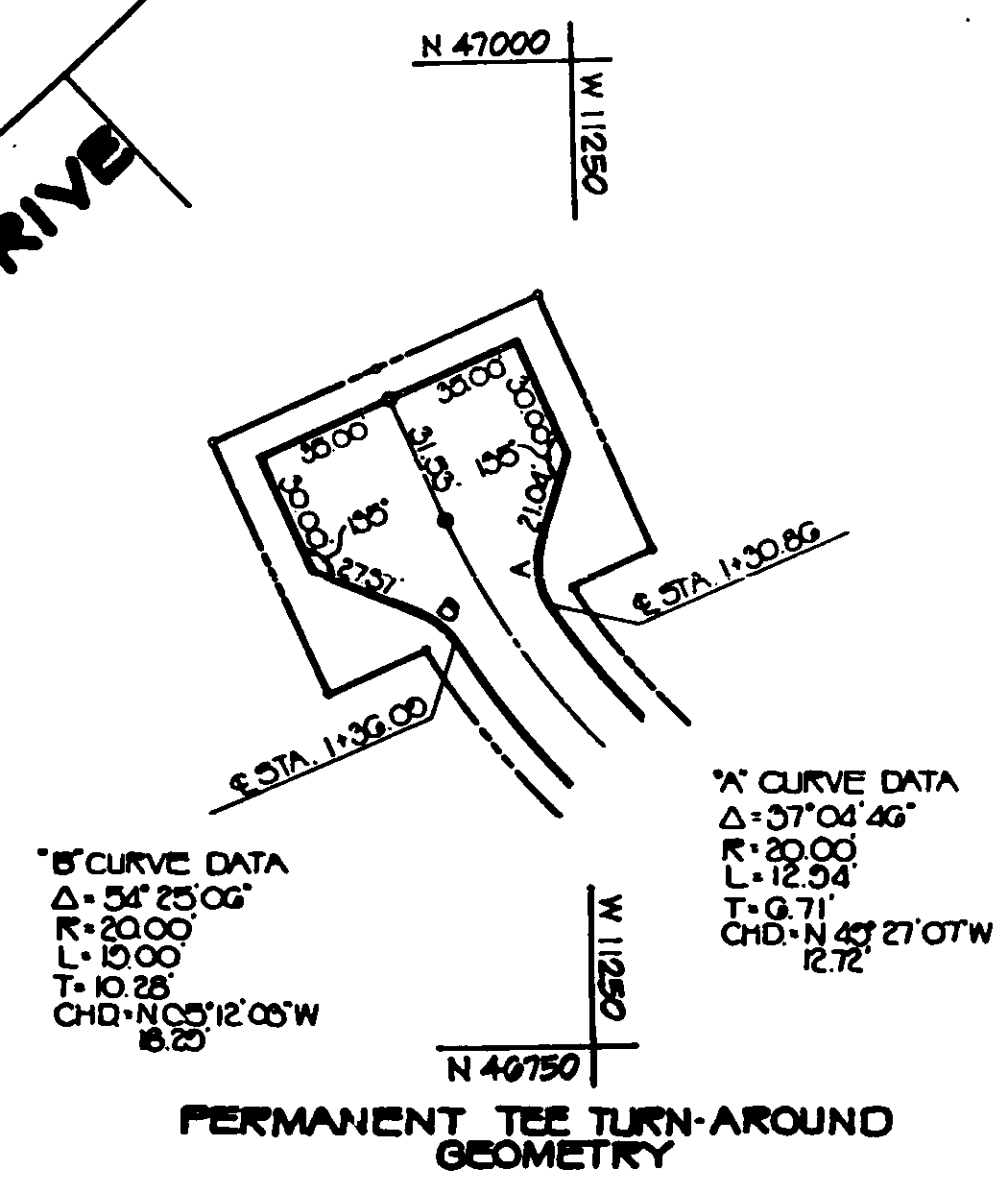
DG:jat
cc: File



1731



1. ALL WORK UNDER THIS CONTRACT SHALL BE PERFORMED BY THE CONTRACTOR IN ACCORDANCE WITH BALTIMORE COUNTY SOIL CONSERVATION DISTRICT PERMIT NO. 1-86.
2. ALL CONSTRUCTION WILL BE ACCOMPLISHED IN ACCORDANCE WITH BALTIMORE COUNTY STANDARD SPECIFICATIONS AND DETAILS FOR CONSTRUCTION, DATED 1978 AND AS AMENDED.
3. THE CONTRACTOR SHALL MAINTAIN, REPAIR AND/OR REPLACE ANY EXISTING SEDIMENT CONTROL DEVICES ENCOUNTERED AND DISTURBED DURING THE COURSE OF CONSTRUCTION UNDER THIS CONTRACT. ALL SUCH DISTURBED DEVICES SHALL BE REPAIRED OR REPLACED BEFORE LEAVING THE WORK SITE AT THE END OF EACH WORK DAY. THE COST OF REPAIRING ALL SUCH WORK, INCLUDING MATERIALS, WILL BE PAID FOR BY LUMP SUM BID FOR MAINTENANCE AND REPAIR OF SEDIMENT CONTROL DEVICES.



JCM/JWR
DAFT-MAGUNE-WALKER, INC.

86507
8-17-86

BUREAU OF PUBLIC SERVICES
8/18/86

8/18/86

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